

# **REPORT OF THE INTERAGENCY COUNCIL ON ENVIRONMENTAL LEAD TO THE GOVERNOR**

Submitted February 28, 2005  
for the period January through December 2004

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# **Rhode Island is ready to Implement the Lead Hazard Mitigation Law on July 1, 2005!**

## **I. Introduction.**

The last few months have been spent ensuring that property owners, tenants, and the general public are adequately equipped to comply with the Lead Hazard Mitigation Law. Through a variety of coordinated efforts, a solid infrastructure has been established that will ensure a smooth process for all individuals and agencies to achieve compliance with their responsibilities. Over 6,000 property owners throughout the state have taken an active role in the process; preparing their properties, informing their tenants, and educating themselves about lead hazards.

At the close of 2004, the Department of Health began compiling and analyzing the last year's lead poisoning data. These data, included in Appendix 1, reveal a harsh reality that much work remains to improve children's environmental health in Rhode Island. While statewide Rhode Island saw no change in the rate of new cases of lead poisoning from 2003 to 2004, within some communities such as Central Falls and Cranston, incidence rates actually rose within the last year. Rhode Island has made excellent progress in decreasing the number of lead poisoned children over the last decade. However, these new data confirm that eliminating lead poisoning from all of Rhode Island's communities will not be accomplished solely through the methods traditionally used. Eliminating childhood lead poisoning in Rhode Island requires a proactive effort to improve the safety and maintenance of all rental properties in the state. The state of Rhode Island is ready to implement this proactive effort through the Lead Hazard Mitigation Law and protect the safety and health of all its residents.

## **II. Homeowners and tenants informed about the requirements of the law.**

In October 2004 the Housing Resources Commission was awarded a two-year grant for \$511,146 from the Department of Housing and Urban Development to support strategies included in the Comprehensive Strategic Plan, including, but not limited to:

- 1) Informing property owners, tenants, and other affected parties about their rights and responsibilities under the Law;
- 2) Providing training and technical assistance to property owners on reducing lead hazards;
- 3) Providing resources to property owners to assist them in bringing their units into compliance with the Law,
- 4) Coordinating resources among State and local agencies to increase participation in Lead Hazard Reduction Programs.

The HRC anticipates that this grant will make at least 200 housing units lead-safe; and bring 10,000 rental units into compliance with the new lead hazard mitigation standards. Efforts will target the core urban communities of Newport, Providence, Woonsocket, Pawtucket, West Warwick and Central Falls. To accomplish this, the HRC will partner with a wide range of public and private organizations and community-based organizations including the Rhode Island Department of Health, Childhood Lead Action Project (the Project), Progreso Latino, the Socio Economic Development Center for Southeast Asians (SEDC), West Bay Community Action Program, Blackstone Valley Community Action Program, and the Housing Network of Rhode Island. To help overcome language and cultural barriers and serve the high proportion of minority residents in the targeted communities, special attention will be given to reaching Latino and Southeast Asian residents.

One of the first results of the grant has been the initiation of the second media campaign designed to inform property owners about the Lead Mitigation Law and their responsibility to address lead hazards in their units. Radio ads ran in November and December of 2004. The latest round of the public awareness campaign, which began running in January 2005, involves radio, billboards and print media.

As a result of these outreach efforts, over 6,000 property owners have now taken the three hours Lead Hazard Awareness Class. In addition to the classes being offered by the 16 organizations

certified to teach the class, the HRC offered a series of free classes around the state in December 2004. The Childhood Lead Action Project is also offering free classes to landlords and tenants in Providence and East Providence.

Other promising results include:

- 45,000 booklets on the Lead Hazard Mitigation Law have been distributed to property owners and tenants.
- Over 3,300 individuals have been assisted through the HRC's 1-800 hotline.
- A Frequently Asked Questions (FAQ) sheet on the Lead Mitigation Law has been developed and is available on the HRC's webpage at [www.hrc.ri.gov](http://www.hrc.ri.gov).

Additionally, the HRC is currently in the process of hiring two staff positions, funded through the Lead Outreach Grant, to assist in its lead outreach and education activities.

### **III. Inspectors ready to conduct clearance inspections in 163,000 properties.**

The Department of Health has licensed 153 certified environmental lead inspector technicians and 29 certified environmental lead inspectors to perform comprehensive, limited and mitigation inspections. It is estimated that these lead professionals can inspect 163,000 rental units in a calendar year.

There are currently three training providers licensed to conduct the 24-hour Environmental Lead Inspector Technician course and two training providers licensed to conduct the 40-hour Environmental Lead Inspector course.

### **IV. Certificates of Conformance issued and tracked online.**

The Housing Resources Commission, with assistance from the state's web system (RI.gov), set up a web-based data system that is now available to lead professionals and allows them to issue Certificates of Conformance and track data on units in compliance. Inspectors were trained about the use and availability of this web resource and started to use it in October 2004. The Housing Resources Commission will be working with RI.gov to develop a search engine so that the public can access information on rental units that have achieved compliance.

To date, 300 rental units have proactively received Certificates of Conformance. That is in addition to more than 3,500 units that received lead-safe certificates between 1995 and 2004. Additional data on units receiving lead-safe certificates in 2004 are included in Appendix 2.

### **V. High Risk Property lists posted on the web and in use.**

All of the public list requirements of the Lead Poisoning Prevention Act, as amended, (Highest Risk Properties, Properties with Multiple Poisoning, Second Notice of Violation Listing) are available at the Department of Health web site. The "highest risk properties" list is updated as information changes; and the other lists are updated monthly or more often if needed.

Additional data on environmental cases initiated due to a significantly lead poisoned child, notices of violations issued and high-risk properties are included in Appendix 3 of this report.

### **VI. Regulations modified and issued.**

The Housing Resources Commission has proposed the following amendments to the Lead Hazard Mitigation Regulations that will assist property owners in complying with the law:

1. Exempt vacation properties that are rented no more than 31 days per calendar year to the same tenant and any emergency shelter intended for night-to-night accommodation.

2. Reduce the soil treatment areas from 10 feet to 5 feet of the dwelling, other buildings on the Premises, and Designated Play Area.

Additionally, The Department of Health's *Rules and Regulations for Lead Poisoning Prevention* were amended, effective January 2005, to bring the regulations into conformity with the requirements of Chapter 42-128.1 ("Lead Hazard Mitigation") and to update the regulations with other statutory and license requirements. Changes included the modification of definitions in order to make distinctions with the *Lead Hazard Mitigation Regulations*, promulgated by the Housing Resources Commission; adding training requirements to include the *Lead Hazard Mitigation Regulations*; extending the time frame for completing the required inspections to obtain Environmental Lead Inspector's licenses; and providing an incentive for existing Environmental Lead Inspectors to train Environmental Lead Inspector Technicians.

## **VII. Insurance companies ready to write lead liability coverage.**

The Department of Business Regulations promulgated Insurance Regulation 101, effective on April 8, 2003, to establish a uniform policy regarding lead poisoning coverage in pre-1978 residential rental property and to set forth requirements to assure the availability of insurance coverage for losses and damages caused by lead poisoning. In addition to promulgating Insurance Regulation 101, the Department issued Insurance Bulletins #2003-9 and #2003-13 to address issues that arose out of consumer complaints and miscellaneous inquiries relating to the insurers' issuance of lead liability coverage in Rhode Island. These Bulletins are included in Appendix 4.

In accordance with Insurance Regulation 101, insurers and advisory organizations were required to submit proposed policy forms and rate filings for lead liability coverage to the Department by October 1, 2003. The Department, along with its consulting actuaries, reviewed the proposed filings for compliance with the Lead Hazard Mitigation Law. The Department expended a great deal of time and resources reviewing filings to ascertain compliance with the Law. Approvals were issued to be effective July 1, 2004. The Department spoke at various Industry meetings and seminars targeted at the insurance regulatory aspects of the Law, including seminars conducted by the Independent Insurance Agents of Rhode Island, the Rhode Island Joint Reinsurance Association, and the Chartered Property Casualty Underwriters Society. A representative from the Department of Health also participated in the seminars.

Since the postponement of the Law, the Department has received relatively few inquiries on coverage for lead liability. Should material changes to policy forms and rates become necessary, the Department would once again be required to expend time and resources reviewing revised filings to ascertain compliance with the amendments. The Department may also be required to amend existing Regulations and Insurance Bulletins to address any material changes that may occur during this legislative session.

## **VIII. Department of Environmental Management ready to implement the self-certification program for removal of exterior lead paint by contractors.**

The Rhode Island Department of Environmental Management planned and designed a self-certification program for removal of exterior lead paint by contractors. The project is in the final approval stage and will be implemented in early 2005. A stakeholder process is concluding in early 2005, which includes representatives from DEM, the Department of Health, the Housing Resources Commission, URI Center for Pollution Prevention & Environmental Health, EPA Region 1, and industry representatives. The program is designed as a simpler and more useful way to regulate removal of exterior lead paint, and improve compliance with environmental regulations, specifically DEM Air Pollution Control Regulation # 24, entitled, "Removal of Exterior Lead Based Paint from Exterior Surfaces", as well as compliance with the federal Pre-Renovation Education Rule.

The program features an easy-to-read certification workbook, and self-certification participation form and checklist to be completed by the exterior lead paint removal contractors and submitted to DEM. Participating contractors will be listed on DEM's website and will be provided with numbered

certificates that they may display to indicate their compliance with the regulatory requirements. DEM will provide training to contractors with instruction and guidance in participating in the program, as well as ongoing regulatory compliance assistance to contractors.

For the calendar year 2004, the Office of Compliance and Inspection (OC&I) received a total of 129 lead paint related complaints. In response to those complaints, inspectors conducted 75 investigations addressing 95 of those complaints. In addition to the 75 investigations, OC&I inspectors conducted 38 re-inspections. These investigations resulted in 37 violations. A total of 36 informal enforcement actions and 2 formal enforcement actions were issued to address those violations. 13 sites were verified as fully cleaned.

#### **IX. The Department of the Attorney General ready to enforce.**

The Department of the Attorney General has issued Retaliatory Eviction Guidelines and, within its power, is ready to pursue complaints of retaliatory evictions by tenants.

The Department of the Attorney General, in conjunction with the Department of Health, has been trying to reorganize the Lead Triage Team. It has attempted to contact officials of the City of Providence in order to determine which representatives from Providence Division of Code Enforcement should be participating in the Triage Team, and is waiting for Providence's response.

The Department of the Attorney General has been unable to fill the position of Lead Advocate because it has not been given either funding or an FTE for that position. Presently, one-third of the time of the Special Assistant Attorney General who is assigned to the prosecution of lead hazard cases pursuant to the Lead Poisoning Prevention Act is allotted to lead enforcement. In addition, the Department of Attorney General is pursuing lead abatement actions through additional staff, most notably, through the nuisance/abatement action actively being pursued against major companies responsible for the manufacture and introduction of lead based paints into Rhode Island.

In 2003, the Department of the Attorney General received 14 new referrals from the Department of Health for prosecution under the Lead Poisoning Prevention Act. Of those 14 cases:

- 6 cases have been closed (complete lead-safe status achieved)
- 4 cases have abatement in progress and are close to lead-safe status
- 4 cases have not made significant progress in lead abatement and the Department is in the process of filing suit against those owners.

In total, The Department of the Attorney General closed 56 DOH-referred lead poisoning prevention cases in 2004. Presently, of the 286 DOH-referred cases since the 1990's, 97 cases remain open in various stages of prosecution by the Department of the Attorney General.

#### **X. Medicaid-funded Lead Centers Continue To Serve Lead Poisoned Children.**

Lead Centers funded by the Department of Human Services continue to receive referrals from the Department of Health and offer case management services to the families of lead poisoned children in the state. In an effort to contribute with housing solutions to the lead poisoning problem in the state, affecting a significant number of the Rlte Care population, Medicaid has also formulated a process to allow Lead Centers to work with Rlte Care families to provide window replacement and related home renovations if the units qualified. In 2004, 30 windows in 2 units were replaced, helping to reduce future lead poisoning cases in those housing units. Medicaid will continue to work with Lead Centers to assist in the implementation of window replacement and spot repairs, to ensure that a greater number of Rlte Care families have access to this benefit.

#### **XI. Next Steps.**

The Interagency Council on Environmental Lead will continue to meet bimonthly to coordinate statewide efforts to prepare Rhode Island for the implementation of the Lead Hazard Mitigation Law.

2004 Council Membership included:

Patricia A. Nolan, MD, MPH – Department of Health  
Terrence Gray – Department of Environmental Management  
Susan Bodington – Housing Resources Commission  
Sharon Kernan – Department of Human Services  
Nancy Remington – R.I. League of Cities and Towns/City of East Providence  
Amy Coleman – Department of Attorney General

Other Attendees included:

Paula Pallozzi – Department of Business Regulation  
Elizabeth Dwyer – Department of Business Regulation

Agencies and individuals throughout Rhode Island have worked vigorously since July to develop a solid infrastructure that will support the state and its residents throughout the implementation of the Lead Hazard Mitigation Law. Rhode Island is prepared for July 1, 2005! One hundred children are being poisoned in Rhode Island each month. This proactive effort will help us work toward our goal of eliminating childhood lead poisoning, and will provide our state's children with safe and healthy homes in which to live.

## **XII.    Appendices.**

1. Incidence of Lead Poisoning 2003 and 2004
2. Units That Completed Lead Hazard Reduction In 2004
3. Public Lists
4. Department Of Business Regulations Bulletins 2003-9 and 2003-13.

# **1. INCIDENCE OF LEAD POISONING FOR YEARS 2003 AND 2004.**

| City or Town         | 2003                                                        |                                                         |             | 2004                                                        |                                                         |             |
|----------------------|-------------------------------------------------------------|---------------------------------------------------------|-------------|-------------------------------------------------------------|---------------------------------------------------------|-------------|
|                      | # Children With BLL $\geq$ 10 $\mu$ g/dL for the First Time | Total # Children Screened With No Previous Elevated BLL | Incidence   | # Children With BLL $\geq$ 10 $\mu$ g/dL for the First Time | Total # Children Screened With No Previous Elevated BLL | Incidence   |
| Barrington           | 6                                                           | 644                                                     | 0.9%        | 6                                                           | 655                                                     | 0.9%        |
| Bristol              | 17                                                          | 627                                                     | 2.7%        | 12                                                          | 587                                                     | 2.0%        |
| Burrillville         | 22                                                          | 396                                                     | 5.6%        | 12                                                          | 374                                                     | 3.2%        |
| Central Falls        | 59                                                          | 992                                                     | 5.9%        | 77                                                          | 1,005                                                   | 7.7%        |
| Charlestown          | 5                                                           | 221                                                     | 2.3%        | 6                                                           | 193                                                     | 3.1%        |
| Coventry             | 14                                                          | 860                                                     | 1.6%        | 7                                                           | 840                                                     | 0.8%        |
| Cranston             | 34                                                          | 1,831                                                   | 1.9%        | 54                                                          | 1,858                                                   | 2.9%        |
| Cumberland           | 11                                                          | 847                                                     | 1.3%        | 9                                                           | 879                                                     | 1.0%        |
| East Greenwich       | 7                                                           | 344                                                     | 2.0%        | 7                                                           | 360                                                     | 1.9%        |
| East Providence      | 42                                                          | 1,410                                                   | 3.0%        | 41                                                          | 1,430                                                   | 2.9%        |
| Exeter               | 1                                                           | 139                                                     | 0.7%        | 1                                                           | 139                                                     | 0.7%        |
| Foster               | 8                                                           | 102                                                     | 7.8%        | 2                                                           | 94                                                      | 2.1%        |
| Glocester            | 5                                                           | 152                                                     | 3.3%        | 0                                                           | 160                                                     | 0.0%        |
| Hopkinton            | 5                                                           | 231                                                     | 2.2%        | 8                                                           | 238                                                     | 3.4%        |
| Jamestown            | 4                                                           | 123                                                     | 3.3%        | 2                                                           | 114                                                     | 1.8%        |
| Johnston             | 18                                                          | 659                                                     | 2.7%        | 13                                                          | 601                                                     | 2.2%        |
| Lincoln              | 1                                                           | 480                                                     | 0.2%        | 6                                                           | 477                                                     | 1.3%        |
| Little Compton       | 4                                                           | 128                                                     | 3.1%        | 2                                                           | 114                                                     | 1.8%        |
| Middletown           | 10                                                          | 547                                                     | 1.8%        | 11                                                          | 567                                                     | 1.9%        |
| Narragansett         | 5                                                           | 262                                                     | 1.9%        | 5                                                           | 238                                                     | 2.1%        |
| New Shoreham         | 1                                                           | 23                                                      | 4.3%        | 2                                                           | 30                                                      | 6.7%        |
| Newport              | 52                                                          | 845                                                     | 6.2%        | 35                                                          | 761                                                     | 4.6%        |
| North Kingstown      | 12                                                          | 816                                                     | 1.5%        | 17                                                          | 784                                                     | 2.2%        |
| North Providence     | 15                                                          | 604                                                     | 2.5%        | 13                                                          | 594                                                     | 2.2%        |
| North Smithfield     | 4                                                           | 220                                                     | 1.8%        | 2                                                           | 233                                                     | 0.9%        |
| Pawtucket            | 123                                                         | 2,666                                                   | 4.6%        | 109                                                         | 2,678                                                   | 4.1%        |
| Portsmouth           | 6                                                           | 554                                                     | 1.1%        | 13                                                          | 570                                                     | 2.3%        |
| Providence           | 473                                                         | 7,628                                                   | 6.2%        | 487                                                         | 7,739                                                   | 6.3%        |
| Richmond             | 3                                                           | 172                                                     | 1.7%        | 8                                                           | 177                                                     | 4.5%        |
| Scituate             | 5                                                           | 271                                                     | 1.8%        | 3                                                           | 253                                                     | 1.2%        |
| Smithfield           | 4                                                           | 369                                                     | 1.1%        | 2                                                           | 332                                                     | 0.6%        |
| South Kingstown      | 15                                                          | 729                                                     | 2.1%        | 28                                                          | 745                                                     | 3.8%        |
| Tiverton             | 16                                                          | 472                                                     | 3.4%        | 8                                                           | 514                                                     | 1.6%        |
| Warren               | 18                                                          | 368                                                     | 4.9%        | 10                                                          | 327                                                     | 3.1%        |
| Warwick              | 17                                                          | 1,790                                                   | 0.9%        | 41                                                          | 1,847                                                   | 2.2%        |
| West Greenwich       | 2                                                           | 141                                                     | 1.4%        | 2                                                           | 135                                                     | 1.5%        |
| West Warwick         | 19                                                          | 800                                                     | 2.4%        | 21                                                          | 817                                                     | 2.6%        |
| Westerly             | 21                                                          | 620                                                     | 3.4%        | 16                                                          | 570                                                     | 2.8%        |
| Woonsocket           | 77                                                          | 1,578                                                   | 4.9%        | 66                                                          | 1,598                                                   | 4.1%        |
| Unknown RI City/Town | 0                                                           | 4                                                       | 0.0%        | 3                                                           | 91                                                      | 3.3%        |
| <b>STATEWIDE</b>     | <b>1,161</b>                                                | <b>31,665</b>                                           | <b>3.7%</b> | <b>1,167</b>                                                | <b>31,718</b>                                           | <b>3.7%</b> |

Source: RI Childhood Lead Poisoning Prevention Program, February 2005

Note: A child may be represented in this table more than once if he lived and was tested in more than one city or town during the same year.



## **2. UNITS THAT COMPLETED LEAD HAZARD REDUCTION IN 2004.**

There are currently four Lead Hazard Reduction Programs in Rhode Island offering low or no-interest loans to property owners in order to make their housing units lead-safe. These programs have played a large role in improving the safety of housing units in Rhode Island communities. The chart below details the number of units achieving lead-safe certificates through one of these programs in the year 2004.

| <b>Lead Hazard Reduction Program</b>                         | <b>Number of housing units achieving lead-safe certificates through the program</b>                                                                    |
|--------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| City of Providence Lead and Healthy Homes Program            | 65                                                                                                                                                     |
| Warwick Lead Hazard Reduction Program                        | 19                                                                                                                                                     |
| Woonsocket Safety First! Home Repair Cost Assistance Program | 11                                                                                                                                                     |
| Rhode Island Housing and Mortgage Finance Corporation        | 151*<br><br>*151 additional units received clearance inspections through the program, resulting in the achievement of lead-safe status in these units. |

### **3. PUBLIC LISTS.**

The following tables provide basic statistics of Environmental cases created due to Environmental Interventional Blood Lead Levels (EIBLL).

**Table 1. For EIBLL Cases Opened in 2004 as of 12/31/2004**

|                                                           |     |
|-----------------------------------------------------------|-----|
| Number of Initial Inspection performed in 2004            | 118 |
| Number of EIBLL Cases reaching Abatement Complete in 2004 | 23  |
| Number of Second Notice of Violation Posted in 2004       | 51  |

**Table 2. EIBLL Grand Totals as of 12/31/2004**

|                                                                     |       |
|---------------------------------------------------------------------|-------|
| Number of EIBLL Cases Closed with Abatement Complete in 2004        | 170   |
| Number of Compliance Re-Inspections performed by Lead Staff in 2004 | 1,046 |
| Number of Samples Taken in 2004                                     | 1,880 |
| Number of Second Notice of Violation Posted in 2004                 | 125   |
| Number of Ongoing EBL Cases                                         | 336   |

**Table 3. High Risk Case breakdown for 2004 as of 12/31/2004**

|                                                                            |    |
|----------------------------------------------------------------------------|----|
| Number of High Risk Cases Opened in 2004                                   | 57 |
| Number of Ongoing High Risk Cases                                          | 47 |
| Number of High Risk Cases reaching Abatement Complete in 2004              | 2  |
| Number of High Risk Cases closed due to Premise Razed in 2004 <sup>1</sup> | 5  |
| Number of Notice of High Risk sent in 2004 <sup>2</sup>                    | 62 |
| Number of Notice of Unsafe Habitation sent in 2004                         | 32 |

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<sup>1</sup> The actual raze date for premise is not known.

<sup>2</sup> Ownership change requires a resubmission of the Notice

#### **4. BULLETINS ISSUED BY THE DEPARTMENT OF BUSINESS REGULATIONS.**



### **Department of Business Regulation**

233 Richmond Street  
Providence, RI 02903

## **Insurance Bulletin Number 2003-9**

### **Underwriting Restrictions Based on Age or Geographic Location of Property**

Property & Casualty insurers should remain mindful of the restrictions in underwriting prescribed by the legislature in R.I. Gen. Laws § 27-29-4(7)(iii) which provides:

Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:

- (A) The refusal, cancellation, or limitation is for a business purpose that is not a pretext for unfair discrimination; or
- (B) The refusal, cancellation, or limitation is required by law or regulation.

R.I. Gen. Laws § 27-29-4(7)(iv) contains identical language except for the substitution of the phrase “age of the residential property” for “geographic location of the risk”.

The Department takes this opportunity to clarify what is meant by “business purpose which is not a pretext for unfair discrimination.” This phrase does not allow an insurer to refuse to issue, renew, cancel or limit coverage because costs or loss ratios are higher for properties of a certain age or geographic location. Insurers may not refuse to issue or renew, nor may they cancel or limit coverage because of age or geographic location unless the insurer demonstrates one of the following:

- (1) The refusal, cancellation or limitation is required by law or regulation; or
- (2)
  - (i) The refusal, cancellation or limitation is for a business purpose that is not a pretext for unfair discrimination; and
  - (ii)
    - (a) no meaningful rate can be calculated to cover the risk by using available statistical tools, or

- (b) the insurance premium can be calculated but would be so high as to equal or exceed the amount insured.

The prohibitions discussed in this Bulletin do not limit insurers' ability to underwrite by requiring compliance with certain conditions on a nondiscriminatory basis before the insurer will issue or renew the policy. For example, while an insurer may not refuse to issue or renew, nor may they cancel or limit coverage because a property was built before a certain date, the insurer may require certification of lead or asbestos abatement. The underwriting requirements may be tied to properties of a certain age such as properties built prior to the time lead or asbestos was barred from building materials.

Insurers may not require that the insured produce a "Lead Free" certificate in order to certify lead abatement. Lead abatement is defined by R.I. Gen. Laws § 42-128.1-4 as either "Lead Free" or "Lead Safe". Since "Lead Free" certificates are not generally available for pre-1978 properties, the Department considers an underwriting policy that mandates a "Lead Free" certificate to violate R.I. Gen. Laws § 27-29-4(7). Insurers must accept a "Lead Safe" certificate as proof of abatement.

The Department expects that all insurers will review their underwriting guidelines and immediately bring their practices into compliance with this Bulletin. This Bulletin is an interpretation of existing law. The Department expects that insurers will not only comply prospectively but will also attempt to remedy unlawful activity (i.e. nonrenewals and declinations) in violation of this Bulletin. The Department will investigate all consumer complaints to ascertain compliance with this Bulletin. In addition, future market conduct examinations by the Department will ascertain compliance with applicable laws, regulations and this Bulletin.

Marilyn Shannon McConaghy  
Director, Department of Business Regulation  
July 7, 2003



## Department of Business Regulation

233 Richmond Street

Providence, RI 02903

# Insurance Bulletin Number 2003-13

## Expiration of Lead Liability Exclusions

The Lead Hazard Mitigation Act provides that after June 30, 2004 no insurance company shall exclude coverage for losses or damages caused by lead poisoning. Insurers which currently have approved exclusions have requested the position of the Department as to whether these exclusions contained in policies in-force on June 30, 2004 will expire on June 30, 2004 or whether the exclusion will remain in-force as written until renewal or other permissible termination of the policy.

R.I. Gen. Laws § 42-128.1-9(b) provides:

Except as otherwise provided by this chapter, no insurance company licensed or permitted by the department of business regulation to provide liability coverage to rental property owners shall exclude, after June 30, 2004, coverage, for losses or damages caused by lead poisoning. The department of business regulation shall not permit, authorize or approve any exclusion for lead poisoning, except as specifically provided for by this chapter, that was not in effect as of January 1, 2000, and all previously approved exclusions shall terminate June 30, 2004. As of July 1, 2004, coverage for lead poisoning shall be included in the policy offered by endorsement, as set forth in this section.

This statute does not provide or contemplate a retrospective application and will only be applied prospectively. Therefore, if an in-force policy has an approved exclusion in place prior to June 30, 2004, this exclusion will remain in effect until the expiration or other permissible termination of the policy. Any policy issued, delivered or renewed after June 30, 2004 must follow R.I. Gen. Laws § 42-128.1-9.

Marilyn Shannon McConaghy  
Director, Department of Business Regulation  
July 1, 2003